

REMARKS

Applicants have carefully considered the June 29, 2007 Office Action, and the amendments above together with the comments that follow are presented in a bona fide effort to address all issues raised in that Action and thereby place this case in condition for allowance. Claims 1-14 are pending in this application. In response to the Office Action dated June 29, 2007, claims 1, 2, 9 and 14 have been amended. Adequate descriptive support for the present Amendment should be apparent throughout the originally filed disclosure as, for example, the depicted embodiments and related discussion thereof in the written description of the specification. Applicants submit that the present Amendment does not generate any new matter issue. Entry of the present Amendment is respectfully solicited. It is believed that this response places this case in condition for allowance. Hence, prompt favorable reconsideration of this case is solicited.

The Examiner is respectfully requested to forward Applicants a complete initialed copy of the PTO-1449 form submitted with the Information Disclosure Statement filed March 30, 2007. The Examiner's initials are not present next to the Supplemental European Search Report listed in the "Other Art" section of the PTO-1449. Applicants request a complete initialed copy of the PTO-1449 with the next Office communication.

Claims 1-14 were rejected under 35 U.S.C. § 102(b) as being anticipated over Li et al. (U.S. Pat. No. 6,173,755, hereinafter "Li"). Alternatively, claims 1-14 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Li in view of Fiel et al. (U.S. Pat. No. 5,912,080, hereinafter "Fiel"). Applicants respectfully traverse the rejections.

The factual determination of lack of novelty under 35 U.S.C. § 102 requires the identical disclosure in a single reference of each element of a claimed invention, such that the identically

claimed invention is placed into the possession of one having ordinary skill in the art. *Helifix Ltd. v. Blok-Lok, Ltd.*, 208 F.3d 1339, 54 USPQ2d 1299 (Fed. Cir. 2000); *Electro Medical Systems S.A. v. Cooper Life Sciences, Inc.*, 34 F.3d 1048, 32 USPQ2d 1017 (Fed. Cir. 1994). Moreover, in imposing the rejection under 35 U.S.C. § 102, the Examiner is required to specifically identify wherein an applied reference is perceived to identically disclose each feature of a claimed invention. *In re Rijckaert*, 9 F.3d 1531, 28 USPQ2d 1955 (Fed. Cir. 1993); *Lindemann Maschinenfabrik GMBH v. American Hoist & Derrick Co.*, 730 F.2d 1452, 221 USPQ 481 (Fed. Cir. 1984).

There are significant differences between the claimed casting nozzle and the nozzle disclosed by Li that would preclude the factual determination that Li identically describes the claimed subject matter within the meaning of 35 U.S.C. § 102.

As described at col. 3, lines 14-17 of Li, during the casting operation, molten metal is cooled while on casting belt 12. However, the casting nozzle of the present claimed subject matter includes a pair of rolls, i.e. double roll casting. The casting belt of Li has problems with increasing the cooling rate of the molten metal. In Fig. 2A of the present application, a schematic diagram shows a structure of the tip part of the nozzle and in which the tip of the nozzle (cross sectional view) is arranged in contact with a movable mold prior to casting. The nozzle tip is arranged in contact with pair of rolls 14.

Moreover, as described in the specification at page 10, numbered paragraph [0017], The material which is superior in terms of strength and elasticity is designed to have strength sufficient to prevent wear even if it touches a movable mold, and to have a tensile strength of 10 MPa or more and an elastic modulus of 5000 MPa or more so that it may have deformability which is sufficient to make close contact with the movable mold and to follow the movement of

the movable mold. At least the nozzle tip arranged on the movable mold side is provided with a high-strength elastic layer made of a material having such superior elasticity and high strength. The entire nozzle may be formed of such material having high strength and high elasticity. Then, since the nozzle has superior elasticity, it is possible to arrange the nozzle in the state in which, prior to casting, the tip of the nozzle is pressed to the movable mold, thereby deforming it within an elastically deformable range such that it is in close contact with the movable mold. Also, since the nozzle is superior in terms of elasticity, it can follow the movement of the movable mold during casting: for example, in the case of a movable mold consisting of one pair of rolls, it can follow such a movement as the gap between the rolls spreads. Thus, without adding a force, such as a pressing force from outside, to the nozzle in order to maintain the interstice between the tip of outer peripheral edge of the nozzle and the movable mold to be small, the narrow gap can be maintained for a long period. More specifically, the gap can be maintained within 0.8 mm or less.

The above argued differences between the claimed casting nozzle and the Li's nozzle undermines the factual determination that Li discloses the casting nozzle identically corresponding to that claimed. *Minnesota Mining & Manufacturing Co. v. Johnson & Johnson Orthopaedics Inc.*, 976 F.2d 1559, 24 USPQ2d 1321 (Fed. Cir. 1992); *Kloster Speedsteel AB v. Crucible Inc.*, 793 F.2d 1565, 230 U.S.P.Q. 86 (Fed. Cir. 1986). Applicants, therefore, submit that the imposed rejection of claims 1-14 under 35 U.S.C. § 102 for lack of novelty as evidenced by Li is not factually viable and, hence, solicit withdrawal thereof.

Applicants incorporate herein the arguments previously advanced in traversal of the rejection of claims 1-14 under 35 U.S.C. § 102(b) predicated upon Li. The secondary reference to Fiel does not cure the argued deficiencies of Li. The Examiner relied on Fiel for its teaching of

isotropic graphite. Thus, even if the applied references are combined as suggested by the Examiner, and Applicants do not agree that the requisite realistic motivation has been established, the claimed casting nozzle having a pair of rolls will not result. *Uniroyal, Inc. v. Rudkin-Wiley Corp.*, 837 F.2d 1044, 5 USPQ2d 1434 (Fed. Cir. 1988). Accordingly, the rejection of claims 1-14 under 35 U.S.C. § 103(a) is also not legally viable and should be withdrawn.

It is believed that all pending claims are now in condition for allowance. Applicants therefore respectfully request an early and favorable reconsideration and allowance of this application. If there are any outstanding issues which might be resolved by an interview or an Examiner's amendment, the Examiner is invited to call Applicants' representative at the telephone number shown below.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,

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